

FUNERAL SERVICE LICENSING ACT

58-9-1. Short title.

This chapter shall be known as the "Funeral Services Licensing Act".

58-9-2. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Board of Funeral Service created in Section 58-9-3.
- (2) "Calcination" means a process whereby the dead human body is reduced by intense heat to a residue not as substantive as that which follows cremation.
- (3) "Cremation" means the reduction of the dead human body by direct flame to residue which includes bone fragments.
- (4) "Direct disposition" means the disposition of a dead human body as quickly as law will allow without its preparation by embalming and without any attendant funeral service or graveside service.
- (5) "Disposition" means the final disposal of a dead human body by earth interment, above ground burial, cremation, calcination, burial at sea, delivery to a medical institution, or by other lawful means.
- (6) "Embalming" means replacing certain body fluids in a dead human body with preserving and disinfecting chemicals by a licensed funeral service director.
- (7) "Funeral establishment" means a place established for the purpose of custody, shelter, care, preparation, or disposition of a dead human body; or other services in connection with the human dead.
- (8) "Funeral merchandise" means vaults, caskets, or other personal property into which a dead human body is placed in connection with the transportation or disposition of that body, but does not include mausoleum crypts, interment receptacles preset in cemetery or columbarium niches.
- (9) "Funeral service" means religious or other services, rites, or ceremonies performed with respect to the death of a human with the body of the deceased present.
- (10) "Funeral service apprentice" means an individual licensed under this chapter who is permitted to:
 - (a) assist a funeral service director in the embalming or other preparation of the dead human body for deposition;
 - (b) assist a funeral service director in the cremation calcification or pulverization of the dead human body or its remains; and
 - (c) perform other funeral service activities under supervision of a funeral service director.
- (11) "Funeral service director" means an individual licensed under this chapter who may engage in all lawful professional activities regulated and defined under the practice of funeral service.
- (12) "Graveside service" means a funeral service held at the graveside.
- (13) "Memorial service" means religious or other services, rites, or ceremonies performed with respect to the death of a human without the body of the deceased present.
- (14) "Person" means any individual, sole proprietorship, partnership, corporation, joint venture, business, or entity of any type or form.
- (15) "Practice of funeral service" means:
 - (a) supervising the receipt of custody and transportation of a dead human body for the purpose of preparing that body for disposition or for shipment to another location;
 - (b) entering into contracts with a third party for the providing of professional services regulated under this chapter;;
 - (c) embalming or otherwise preparing a dead human body for disposition;
 - (d) supervising arrangement for or conduct of a funeral service, graveside

- service, or memorial service;
 - (e) cremation, calcification, or pulverization of the dead human body or its remains;
 - (f) supervising arrangement for or actually facilitating the disposition or direct disposition of a dead human body;
 - (g) supervising sales of funeral merchandise by a funeral establishment;
 - (h) managing or otherwise being responsible for the practice of funeral service in a licensed funeral establishment; and
 - (i) supervising sales of prearranged funeral plans or contracting with or employing individuals to sell prearranged funeral plans.
- (16) "Pulverization" means the grinding process which reduces the bone fragments and other residue of a cremation or calcination into a powdery substance.
- (17) "Unlawful conduct" as defined in Section 58-1-501 includes the following activities by a person who is not licensed as a funeral service director or a funeral service apprentice:
- (a) embalming or otherwise using a method or technique that invades the dead human body to prepare that human body for burial or other disposition; and
 - (b) calcinating, pulverizing, or cremating a dead human body.
- (18) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes:
- (a) failure of a funeral service director to accurately document, report, and supervise the activities of a funeral service apprentice;
 - (b) failure of a funeral service director to comply with the requirements of Title 58, Chapter 58, Preneed Funeral Arrangement Act.

58-9-3. Board.

- (1) There is created the Board of Funeral Service consisting of three funeral service directors who own or have an ownership interest in a funeral establishment, one funeral service director who does not have an ownership interest in a funeral service establishment, and one member from the general public who has no association with the funeral service profession.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.

58-9-3.5. Repealed.

58-9-4. License classifications.

- (1) An individual may not engage in practice as a funeral service director, funeral service apprentice, or funeral service establishment unless licensed or exempted from licensure under this chapter.
- (2) The division shall issue licenses to qualified persons in the following classifications:
 - (a) funeral service director;
 - (b) funeral service apprentice; and
 - (c) funeral service establishment.

58-9-5. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in practice in the following activities under this chapter without being licensed, subject to the stated circumstances and limitations:

- (1) transportation of a dead human body in accordance with other applicable state and federal laws;

- (2) ambulance or other emergency transportation of a dead human body;
- (3) sale of funeral merchandise which is delivered to the purchaser or his designee within 90 days after sale;
- (4) performing funeral, graveside, or memorial services by members of the clergy and other recognized individuals;
- (5) assisting a Utah licensed funeral service director regarding disasters or special emergencies by individuals licensed in other states as funeral service directors;
- (6) activities of an unlicensed individual employed by a funeral service establishment involving arrangement for a funeral service or the sale of funeral merchandise if the binding contract is reviewed, approved, and signed in behalf of the funeral service establishment by a licensed funeral service director; and
- (7) nonprofessional tasks or activities which do not require independent professional judgment which are required of persons employed by a funeral service establishment under the supervision of a funeral service director.

58-9-6. Qualifications for licensure.

- (1) All applicants for licensure as a funeral service director shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee as determined by the department pursuant to Section 63-38-3.2;
 - (c) be of good moral character;
 - (d) have completed a high school education or its equivalent;
 - (e) have obtained an associate degree, or its equivalent, in mortuary science from a school of funeral service accredited by the American Board of Funeral Service Education or other accrediting body recognized by the U.S. Department of Education;
 - (f) have completed not less than 2,000 hours and 50 embalmings, over a period of not less than one year, of satisfactory performance in training as a licensed funeral service apprentice under the supervision of a licensed funeral service director; and
 - (g) have successfully completed examinations approved by the division in collaboration with the board.
- (2) All applicants for licensure as a funeral service apprentice shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee as determined by the department pursuant to Section 63-38-3.2;
 - (c) be of good moral character;
 - (d) have completed a high school education or its equivalent; and
 - (e) have successfully completed an examination testing the applicant's knowledge of the law and rules made under this chapter.
- (3) All applicants for licensure as a funeral service establishment shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee as determined by the department pursuant to Section 63-38-3.2;
 - (c) have in place and maintain at all times a licensed funeral service director responsible for the operation of the funeral service establishment as the sole proprietor, a managing general partner, or an officer of a corporation.
 - (d) if it is the intention of the funeral establishment to sell such contracts, file with the division an application for a license to sell "pre-need funeral contracts."

58-9-7. Term of license - Expiration - Renewal.

- (1) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be extended

or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

- (2) At the time of renewal the licensee shall show satisfactory evidence of completion of continuing education as required under this chapter.
- (3) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

58-9-8. Continuing education.

As a condition of license renewal, each licensee shall:

- (1) complete 20 hours of continuing professional education as a funeral service director approved by the board; and
- (2) submit evidence of completion as required by rule.

58-9-9. Limitation of term of funeral service apprentice license.

- (1) An individual may not be granted a funeral service apprentice license for a term to exceed two years from the date of issuance. Two years following the date of issuance, a funeral service apprentice license expires.
- (2) Notwithstanding Subsection (1), a person who has once held a license as funeral service apprentice and has not qualified for licensure as a funeral service director may be issued a subsequent funeral service apprentice license for only one additional two-year term upon the specific approval of the division in collaboration with the board.

58-9-10. Supervision of funeral service apprentice.

- (1) A person seeking licensure as a funeral service apprentice shall submit as a part of the application for license the name of the licensed funeral service director who has agreed to assume responsibility for the supervision of the applicant and the name of the licensed funeral establishment at which the training and supervision shall take place.
- (2) A licensed funeral service director may supervise only one licensed funeral service apprentice at one time.
- (3) Upon termination of the supervisor-supervisee relationship between a licensed funeral service director and a licensed funeral service apprentice, the funeral service director shall furnish to the division within 30 days a report of the performance of the funeral service apprentice during the period of supervision. The report shall be in form and content as prescribed by the division.
- (4) A licensed funeral service apprentice may change his supervising funeral service director by applying to the division for approval of a change. The application shall be made upon a form prescribed by the division. A change of supervisor may not be made without the approval of the division. At the time of the change, a report of the funeral service apprentice's performance shall be submitted to the division by the supervising funeral service director in accordance with the provision of Subsection (3).
- (5) The licensed funeral service director is responsible for all of the duties and functions performed by the funeral service apprentice.

58-9-11. Requirements for a funeral establishment.

The division in collaboration with the board shall establish by rule, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the minimum requirements for the physical facilities, equipment, instruments, and supplies required in a licensed funeral establishment.

58-9-12. Disclosure requirements.

A licensee under this chapter is required to disclose information in accordance with regulations of the Federal Trade Commission and rules adopted by the division pursuant to this chapter.

58-9-13. Grounds for denial of license - Disciplinary proceedings.

Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

58-9-14. Repealed.

58-9-15. Inspection - Right to access.

A licensed funeral service establishment is subject to inspection by authorized representatives of the division or any authorized representative of a local or state health department during normal business hours for the purpose of determining compliance with the laws of this state.

58-9-16 to 58-9-24. Repealed.

FUNERAL SERVICE LICENSING ACT

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